

STATE OF ALABAMA
STATE BANKING DEPARTMENT
BUREAU OF LOANS
(NOT SUBJECT TO APA)
ADMINISTRATIVE CODE

CHAPTER 155-2-3
ALABAMA SMALL LOAN ACT REGULATIONS

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155-2-3-.01 Licensing.

(1) The provisions of the Alabama Small Loan Act require that a license be obtained from the Alabama State Banking Department-Bureau of Loans prior to lending money under that Act.

(2) Prior to the issuance of a license, the applicant shall have executed and submitted a license application in the form prescribed by the Supervisor of the Bureau of Loans and shall include such information, statements, and representations as may be required by the Supervisor to make a determination as to the issuance or denial of license.

(3) Prior to the issuance of a license, the applicant shall have submitted satisfactory evidence that the applicant has unencumbered cash assets of not less than \$10,000.00 available for the operation of the business under the Small Loan Act.

(4) Prior to the issuance of a license, the applicant shall have tendered an investigation fee and the license fee as required by the Small Loan Act to the Supervisor simultaneously with the filing of the license application. Separate checks for each fee

are required and each should be payable to the State Banking Department.

(5) A licensee shall notify and submit the license issued by the Department to the Supervisor within thirty (30) days of the closing of a licensed office.

Author: Scott Corscadden, General Counsel

Statutory Authority: Code of Alabama 1975, §5-18-4, §5-18-5, §5-18-12

History: Effective October 1, 1997

155-2-3-.02 Renewal Application.

(1) Application for renewal of a license shall be submitted in the form prescribed by the Supervisor and shall include such information, statements, and representations as may be required by the Supervisor.

Author: Scott Corscadden, General Counsel

Statutory Authority: Code of Alabama 1975, §5-18-5, §5-18-12

History: Effective October 1, 1997

155-2-3-.03 Amendment of License.

(1) Any amendment of the license shall require the prior approval of the Supervisor. Authorized amendments, including but not limited to changes in location or trade name, shall be made only upon written request of the licensee and submission of the current license.

Author: Scott Corscadden, General Counsel

Statutory Authority: Code of Alabama 1975, §5-18-8, §5-18-12

History: Effective October 1, 1997

155-2-3-.04 Changes in Ownership.

(1) A licensee, other than a licensee whose shares are publicly traded, shall notify the Supervisor, in writing, of any changes affecting ownership and submit such information as the Supervisor may require consistent with the provisions of the Small Loan Act. The Supervisor may request such information at any time should he

or she have reasonable cause to believe a change in licensee's ownership has occurred.

Author: Scott Corscadden, General Counsel

Statutory Authority: Code of Alabama 1975, §5-18-6, §5-18-9, §5-18-12

History: Effective October 1, 1997

155-2-3-.05 Restricted Activities.

(1) No licensee shall advertise, display, or distribute mailing pieces which may be mistaken for any negotiable instrument whatsoever.

(2) No licensee shall employ unqualified superlatives in advertising, such as "lowest rates", "lowest costs", "lowest payment plan", or "cheapest loans."

(3) Advertisements, statements, display signs, solicitations to prospective customers, any communication made by or at the behest of a licensee intended as a public statement by said licensee, or any printed matter, including stationery imprinted with the name of the licensee, may identify that licensee as "a licensee under the Alabama Small Loan Act." No other wording may be used with reference to any degree of state supervision of licensee's business.

Author: Scott Corscadden, General Counsel

Statutory Authority: Code of Alabama 1975, §5-18-9, §5-18-12, §5-18-13

History: Effective October 1, 1997

155-2-3-.06 Collection Activities.

Any and all collection activity procedures and practices must be conducted in a reasonable manner. Unreasonable collection tactics shall include but not be limited to any conduct by the licensee or employee or agent thereof which:

(1) Causes the borrower or any member of the borrower's family to suffer or reasonably fear bodily injury or physical harm.

(2) Constitutes a willful or intentional trespass by force of the

borrower's home or the borrower's personal property, without process of law.

(3) Involves use of printed material which simulates or resembles summons, warrants or other legal processes.

(4) Although otherwise lawful, occurs at an unreasonable hour of the night. Attempts to make collections by means of personal visits, telephone calls and the like shall be prima facie unreasonable if they occur between the hours of 9:00 p.m. and 6:00 a.m.

(5) Denies the borrower the possession of or use of items of personal property belonging to the borrower unless the borrower has granted the lender a security interest in the property and the lender has subsequently obtained possession of such property in accordance with applicable law.

(6) Threatens or commences criminal prosecutions for worthless checks pursuant to Ala. Code §13A-9-13.1, when a personal check is held as security for the loan.

Author: V. Lynne Windham, Associate Counsel

Statutory Authority: Code of Alabama 1975, Sections 5-18-9 and 5-18-12; Ala. Const., Art. I §20

History: Effective October 1, 1997; Amended August 1, 2002

155-2-3-.07 Other Business Activities.

(1) A licensee shall not establish or conduct any other business in the same physical premises as the licensed place of business without having obtained prior written approval of the Supervisor.

(2) Such other business must be conducted in a manner that will involve no evasion or violation of the Act. Records of other business activities shall be maintained separate and apart from licensed activity records and shall be subject to review by the Department.

(3) Any prior written permission or non-objection letters to conduct other business, other than the sale of other insurance products pursuant to Section 5-19-20(i) and Regulation 155-2-2-.12, shall remain in effect unless revoked, suspended or withdrawn.

(4) Each licensee shall maintain a copy of any written permission or non-objection letter issued by the Supervisor at each licensed location.

Author: Scott Corscadden, General Counsel

Statutory Authority: Code of Alabama 1975, §5-18-8, §5-18-12, §5-18-14

History: Effective October 1, 1997

155-2-3-.08 Prohibited Charges.

(1) No fees or charges, including but not limited to finder's or referral fees charged either directly or indirectly to the referred or prospective borrower, notary fees and attorney's fees shall be contracted for, charged to or collected from the borrower except those specifically authorized and permitted by the Small Loan Act and charges for permissible insurance written in connection with credit transactions under the Small Loan Act authorized by the Alabama Consumer Credit Act - Mini Code and other lawful charges authorized by various state laws.

(2) Prohibited charges do not include a prepaid interest surcharge authorized under Section 8-8-14(a).

Author: Scott Corscadden, General Counsel

Statutory Authority: Code of Alabama 1975, §5-18-12, §5-18-15

History: Effective October 1, 1997

155-2-3-.09 Records to be Maintained by Licensee.

(1) Each licensee shall maintain a file containing a copy of the Small Loan Act and copies of all current rules and regulations issued thereunder.

(2) Unless otherwise approved pursuant to Regulation 155-2-3-.10(6), each licensee shall maintain adequate files at each licensed location containing all information necessary to verify compliance with the Small Loan Act and regulations, including, but not limited to, the following:

a. Charges and disclosure information.

b. Paid out records from which refund verifications may be

made shall be kept in readily available files covering a maximum of the preceding two-year period. Older records shall be removed from files or separately segregated. Refund records shall itemize the amount of finance charge refunded and the amount refunded on each type of permissible insurance included in the transaction.

c. Each licensee shall maintain up-to-date forms on all insurance claims filed, which shall contain all pertinent information necessary to verify compliance with the Small Loan Act, regulations and proper settlement of all such claims. A copy of the death certificate shall be maintained on death claims. A copy of the police and/or fire report shall be maintained on property claims if such a report is made. In the event of a death claim, the unearned premium of credit life insurance is considered earned by the insurance company but the unearned premium of all other credit insurance shall be refunded to the second beneficiary or the estate of the debtor. The settlement of death claims shall be as of the date of death. The proceeds of any insurance claim applicable to a period of time preceding death shall be credited to the account prior to the computation of death claim benefits. All amounts in excess of that required to pay the indebtedness shall be paid by check to the second beneficiary or estate of the debtor.

d. An up-to-date record of suits filed against debtors and of repossessions whether judicial, non-judicial or voluntary release by the debtors. This record shall be maintained on a prepared sheet listing, including, but not limited to, the name and address of the debtor, the account number, the amount financed and the date of the contract, the name of the court in which suit was filed and the case number, the date of suit and amount, the date of judgment and amount, the date of garnishment, amount and employer, and the amount received from the sale of the repossession, a condition report and book value as applicable on the repossessed item(s), the date sold and the name and address of the purchaser.

e. An up-to date record of claims filed in arbitration which have not resulted in litigation.

(3) Each licensee shall keep an alphabetical record of each maker, co-maker, endorser, guarantor or surety on each loan. The record shall include the following information:

a. The name and address of the maker, co-maker, endorser, guarantor and surety,

- b. Loan or account number
- c. Date of the loan, and amount financed,
- d. Date loan is paid in full.

(4) Each licensee shall maintain an individual record on each borrower, showing the following information:

- a. Loan or account number
- b. Name and address of the borrower,
- c. Name of co-makers, endorser, guarantors and sureties,
- d. Date of loan,
- e. Schedule of payments (number and amount),
- f. Date of first payment and maturity date,
- g. Amount financed and if interest is pre-computed, the total of payments,
- h. Recording or filing and releasing fee if collected, where recorded and date released,
- i. Type of security pledged,
- j. Date and amount of payments received (posting shall be as of the date payments are received and payments made from insurance proceeds shall be so noted),
- k. The amount of each payment applied to interest and amount applied to principal (if interest is not pre-computed),
- I. The unpaid balance after each payment,

m. The amount of late charges collected, and

n. Any insurance premiums collected.

(5) In addition to the reports and records required elsewhere in the Small Loan Act and regulations, each licensee shall, upon request of the Supervisor, maintain and/or submit to the Bureau of Loans such other reports and records at such time and in such form as the Supervisor shall require.

(6) A licensee shall not sell, transfer, remove or otherwise dispose of any relevant record from its licensed location within two years after the last transaction on the account without the prior written approval of the Supervisor.

(7) If the licensee is also licensed under the provisions of the Alabama Consumer Credit Act - Mini Code, the records in connection with loans made under each act shall be maintained separately and apart or if computerized, such records shall be segregated according to the act under which the loan was made and retrievable in such a manner.

(8) A licensee may maintain records by a generally recognized record retention system provided the Department is afforded access to any such system.

Author: Scott Corscadden, General Counsel

Statutory Authority: Code of Alabama 1975, §5-18-11, §5-18-12

History: Effective October 1, 1997

155-2-3-.10 Examination Fees.

Author: Scott Corscadden, Supervisor, Bureau of Loans

Statutory Authority: Code of Alabama 1975, §5-18-10, §5-18-12, §5-2A-24

History: Effective October 1, 1997; Repealed January 1, 2020

155-2-3-.11 Minimum Loan Term.

(1) The minimum term for repayment for all traditional-rate loans is one month.

Author: Scott Corcadden, Supervisor, Bureau of Loans

Statutory Authority: Code of Alabama 1975, §5-18-15, §5-18-12

History: Effective March 1, 2002; Amended January 1, 2020